



POLICE DEPARTMENT

December 4, 2009

MEMORANDUM FOR: Police Commissioner

RE: Police Officer Lisa Stokes
Tax Registry No. 932017
Manhattan Court Section
Disciplinary Case No. 84426/08

The above-named member of the Department appeared before me on September 9, 2009, charged with the following:

1. Said Police Officer Lisa Stokes, assigned to the 7th Precinct, while on-duty on or about and during the week on April 27, 2008, having been previously ordered by Lieutenant Opperman, 7th Precinct ICO, not to bring her children into the station house locker room, disobeyed said lawful order by bringing her children into the precinct locker room.

P.G. 203-03, Page 1, Paragraph 2 COMPLIANCE WITH ORDERS

2. Said Police Officer Lisa Stokes, assigned to the 7th Precinct, while on-duty, on or about April 3, 2008, was discourteous to New York City Police Sergeant Acevedo in that, in the presence of other members of the service, Officer Stokes became loud and boisterous, accused Sergeant Acevedo of misconduct, and walked away from Sergeant Acevedo as he was addressing her.

P.G. 203 09, Page 1, Paragraph 2 PUBLIC CONTACT

3. Said Police Officer Lisa Stokes, assigned to the 7th Precinct, while on-duty on or about April 7, 2008, at approximately 1035 hours, was off post without authority, permission or necessity, in that Officer Stokes was in a pharmacy conducting personal business, failed to monitor her Department radio, and was not in possession of her activity log.

P.G. 203 05, Page 1, Paragraph 2 - PERFORMANCE ON DUTY

P.G. 206 03, Page 2, Paragraph 4 - VIOLATIONS

P.G. 202-21, Page 1, Paragraph 17 POLICE OFFICER

COURTESY • PROFESSIONALISM • RESPECT

4. Said Police Officer Lisa Stokes, assigned to the 7th Precinct, while on-duty on or about April 7, 2008, at approximately 1114 hours, failed to monitor her Department radio, and failed to properly perform patrol in that Officer Stokes was observed talking on her private cellular telephone conducting personal business.

P.G. 206 03, Page 1, Paragraph 26 – VIOLATIONS

P.G. 206 03, Page 2, Paragraph 4 – VIOLATIONS

5. Said Police Officer Lisa Stokes, assigned to the 7th Precinct, on or about November 6, 2008, having been previously ordered by Lieutenant Opperman, 7th Precinct ICO, not to bring her children into the station house locker room, disobeyed said lawful order by bringing her children into the precinct locker room. (*As amended*)

P.G. 203 03, Page 1, Paragraph 2 COMPLIANCE WITH ORDERS

6. Said Police Officer Lisa Stokes, assigned to the 7th Precinct, on or about November 6, 2008, failed to safeguard her firearm, and failed to properly secure her locker, in that she left her locker unlocked, open, and unattended, allowing her minor child access to her gun belt which contained her firearm. (*As amended*)

P.G. 204 08, Page 2, Paragraph 7 FIREARMS GENERAL REGULATIONS

P.G. 203 03, Page 1, Paragraph 6 COMPLIANCE WITH ORDERS

7. Said Police Officer Lisa Stokes, assigned to the 7th Precinct, on or about November 11, 2008, engaged another member of the service in a verbal argument over the underlying allegations in DAO Disciplinary Case No. 84426/08, and that police officer's involvement in the investigation. (*As amended*)

P.G. 203 10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

The Department was represented by Daniel Mauer, Esq., Department Advocate's Office, and the Respondent was represented by Craig Hayes, Esq.

The Respondent, through her counsel, entered a plea of Guilty to all of the above charges with the exception of Specification No. 6. The Respondent entered a plea of Not Guilty to Specification No. 6. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded Guilty, is found Guilty of Specification Nos. 1 through 5 and 7. The Respondent is found Guilty of Specification No. 6.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Police Officer Elyse Martinez as its only witness.

Police Officer Elyse Martinez

Police Officer Elyse Martinez, who has been assigned to the 7 Precinct for four of the five years she has been a member of the service (MOS), testified that she is familiar with the Respondent because she was previously assigned to the 7 Precinct and that she had seen the Respondent with her two children prior to November 2008.

On November 6, 2008, Martinez was scheduled to perform a 4:00 p.m. to midnight tour of duty. At 3:40 p.m., she entered the female locker room to change into her uniform. She observed the Respondent's two children, a boy and a girl, in the lounge area of the locker room. Martinez entered the bathroom. When she came out, she saw the girl sitting on the lounge sofa. When Martinez entered the area where the lockers were located, she saw the boy standing in front of the Respondent's open locker. Martinez looked into the locker and observed the Respondent's gun belt hanging on a hook. Martinez could see a firearm inside the holster which was attached to the gun belt. The boy was pulling on the gun belt which was hanging down.

Martinez was shown a diagram of the interior of the female locker room at the 7 Precinct and she confirmed that this diagram accurately reflected the layout of the female locker room (Department's Exhibit 1).

On cross-examination, Martinez acknowledged that roll call for uniformed MOS assigned to the 4:00 p.m. to midnight tour is normally conducted between 3:15 p.m. and 3:30 p.m. When Martinez was asked why she was inside the female locker room getting dressed to begin her tour at 3:40 p.m., she responded that it was possible that she had arrived late that day and reported this at the front desk. She was assigned as the sergeant's operator that day. She could not recall whether or not she attended roll call that day and she did not know whether the 7 Precinct roll call report for the third tour on November 6, 2008 had been changed to reflect her late arrival. (The roll call report contains no handwritten tour adjustments or other changes). She testified that because the patrol sergeant does not leave the station house to go out to the field until about one half hour after roll call, the sergeant's operator is not needed until then. She has never been issued a Command Discipline (CD) or entered in the minor violations log for not appearing at roll call.

Martinez could not recall whether the Respondent was in uniform or dressed in street clothes when she entered the female locker room. Martinez also could not recall what items, other than her gun belt, the Respondent had in her locker. Martinez recalled seeing the boy grab the gun belt, which was "hanging straight down" off of a hook attached to the back of the locker, with both of his hands and that he was "yanking on it" pulling the gun belt towards him. Martinez confirmed that MOS are required to store three short sleeve shirts and three long sleeve shirts inside their locker. Martinez recalled

that when she passed the boy, she “purposely went behind” him, as he was pulling on the gun belt, “just to see what was going on” and she “could see there was a gun on the belt.” She acknowledged that she could not definitively say whether the gun was on the bottom of the belt or the top of the belt. She acknowledged that the manner in which MOS store items inside their lockers can vary and can be very different.

Martinez confirmed that she and Police Officer Nicole Smith, who is also assigned to the 7 Precinct, are friends, that they call each other and that they socialize while off duty about once a month, and that Smith had told her that she had an incident with the Respondent. Martinez reported this incident to Deputy Inspector Frank Dwyer, commanding officer (CO) of the 7 Precinct, the next day. Martinez confirmed that before she reported this incident to Dwyer, she told Police Officer Chen about it and then she told Smith about it. Smith did not say anything to her about what she should do.

On redirect examination, Martinez testified that she did not approach Dwyer to report this incident. Rather, as she was passing by him, he asked her, “What happened?” She had the impression that Dwyer was already aware of the incident and that he had already been told what had happened.

The Respondent’s Case

The Respondent testified in her own behalf.

The Respondent

The Respondent offered testimony for the purpose of mitigating the misconduct she pleaded guilty to under Specification Nos. 1 through 5 and 7.

Regarding Specification Nos. 1 and 5, the Respondent testified that she is the single mother of a seven-year-old son and a 13-year-old daughter, that both of her children attend schools which are located within two blocks of the 7 Precinct station house, and that she cannot afford to pay for child care or for a nanny or a babysitter to watch her children while she is performing her tours of duty. As a result, when she was assigned to the 7 Precinct, where her normal tour of duty commenced at 7:00 a.m., there were times when she brought her children into the female locker room and allowed them to remain in the lounge area watching TV until school started at 7:30 a.m.

With regard to Specification No. 1, the Respondent admitted that even though she had been ordered by Lieutenant Opperman, the Integrity Control Officer (ICO), not to bring her children into the 7 Precinct female locker room anymore, she disobeyed this order by bringing her children into the locker room on April 27, 2008. The Respondent testified that she could not recall the specific reason why her children were inside the locker room on that particular day.

As to Specification No. 5, the Respondent testified that on November 5, 2008, her children got out of school at about 3:25 p.m. and entered the 7 Precinct. The Respondent acknowledged that she allowed her daughter to go into the female locker room and use the restroom located inside the locker room. The Respondent asserted that at that time she did not believe that allowing her daughter to enter the locker room for the purpose of letting her use the restroom there constituted disobeying Opperman's order since he had issued the order because she had allowed her children to sit in the lounge area and watch TV. The Respondent testified that she told her children that they were never to touch her weapon.

Regarding Specification No. 2, the Respondent testified that she wrote a letter to the ICO in which she asserted that Sergeant Acevedo had been improperly placing her into the minor violations log for allegedly being late on days when she was actually "RDO" that day. She recalled that on or about April 3, 2008, Sergeant Acevedo asked to speak to her and that, after he consulted with roll call and determined that the Respondent had submitted a UF-28 for a date on which he had marked her late, he changed that date. The Respondent admitted that she then accused Acevedo of misconduct by telling him, "You know sergeant, isn't that like falsifying records?" Sergeant Acevedo became "very upset." They then began to argue in the presence of other members of the service and she "was talking loud" at Acevedo. She then walked away from Sergeant Acevedo as he was addressing her.

As to Specification No. 3, the Respondent testified that because she had suffered a heart attack, her physician prescribed her blood pressure medication which she was supposed to take daily at 10:00 a.m. Because she had run out of her blood pressure pills the day before, on April 7, 2008 at 10:35 a.m. she left her foot post and got a ride in an RMP to a pharmacy on Grand Street to pick up a new supply of blood pressure pills. She failed to monitor her Department radio while she was there. She testified that she was not in possession of her Activity Log because she was not aware that her Activity Log had fallen out of her pocket when she got out of the RMP. Later that day, she found her Activity Log inside the RMP.

Regarding Specification No. 4, the Respondent acknowledged that on that same day, April 7, 2008, at about 11:14 a.m., she failed to properly perform patrol in that her son's school called her on her private cellular telephone and she answered the call

because the school counselor had misinterpreted something her six-year-old son had said and “was ready to call ACS.”

With regard to Specification No. 7, the Respondent testified that her daughter had asked her if she was in trouble because her daughter had heard a police officer say, “Stokes’ kids are in the locker room again.” The Respondent asked her daughter to describe the officer. Based on this description, the Respondent determined that the officer was Police Officer Nicole Smith. The Respondent acknowledged that on November 11, 2008, she confronted Smith in the locker room and they argued. The Respondent accused Smith of “telling the CO stories more than what it is.” The Respondent asserted that Smith told her to “get a fucking babysitter,” and that Smith “accused me of being gay.” The Respondent admitted that she then lost her temper at Smith and that she should not have confronted Smith about her allegation.

As to Specification No. 6, the Respondent asserted that Martinez invented an allegation that her son reached inside her open locker and touched her gun belt on November 6, 2008. The Respondent testified that she has learned from her mistakes.

On cross-examination, the Respondent testified that her children were inside the locker room on November 5, 2008, but not on November 6, 2008. She saw Martinez inside the locker room on November 5, 2008, at 3:40 p.m. when her children went into the restroom. The Respondent testified that ever since she was transferred to Manhattan Court Section, she no longer has morning child care problems because she drops her children off at school at 8:00 a.m. and her normal tour of duty does not commence until 9:00 a.m.

FINDINGS & ANALYSISSpecification Nos. 1 through 5 and Specification No. 7

The Respondent, having pleaded Guilty, is found Guilty of Specification Nos. 1 through 5 and 7.

Specification No. 6

It is charged that the Respondent, "on or about November 6, 2008," failed to safeguard her firearm and failed to properly secure her locker in that she left her locker unlocked, open, and unattended allowing her minor child access to her gun belt which contained her firearm.

I find the Respondent guilty based on the credible testimony of Police Officer Martinez who vividly recalled seeing the Respondent's son grabbing her gun belt, which was hanging straight down off of a hook attached to the back of her locker, with both of his hands and "yanking" on the gun belt pulling it towards him. I credit Martinez' claim that when she passed the boy she purposely walked directly behind him and peered into the Respondent's locker to see what he was doing, because, under the circumstances, it would have made sense for Martinez to engage in such a precautionary action. The believability of Martinez' testimony that she was able to see that there was a gun on the belt is enhanced by her candid acknowledgment that she could not definitively recall whether the gun was attached to the bottom of the belt or the top of the belt. If Martinez was inventing a story to make trouble for the Respondent, it is likely that she would have asserted that she was certain that the gun was attached to the bottom of the belt, the location where the Respondent's son would have had easiest access to it.

Also, Martinez offered unrefuted testimony that she did not approach her commanding officer to complain about the Respondent's action of leaving her firearm in her open locker where her son could obtain access to it. Rather, she reported what she had seen to him only after he demanded to know, "What happened?" If Martinez wanted to make trouble for the Respondent, it is likely that she would have proactively approached her CO rather than waiting for him to approach her, something she could not be certain he would do.

The Respondent is found Guilty of Specification No. 6.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y. 2d 222 (1974). The Respondent was appointed to the Department on July 22, 2002. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent has pleaded guilty and admitted that she disobeyed lawful orders issued by a lieutenant on two separate occasions by bringing her children into the precinct locker room after she had been ordered by the lieutenant not to do this; being discourteous to a sergeant in the presence of other MOS by talking at him loudly, accusing him of misconduct and walking away from him as he was addressing her; being off-post and conducting personal business inside a pharmacy, without permission or necessity; failing to monitor her radio and not possessing her Activity Log while on duty; failing to properly perform patrol because she was conducting personal business on her

private cell phone and not monitoring her radio; and engaging in an argument with Officer Smith about the underlying allegations in a disciplinary case and Smith's involvement in the investigation of the allegations.

The only mitigating factor I find in the Respondent's testimony was her assertion that the only reason that she conducted personal business on her private cell phone while on post was because the call she had received was from a counselor at her son's school.

The Respondent has been found Guilty of failing to safeguard her firearm and failing to properly secure her locker by leaving it unlocked, open and unattended, which allowed her son to gain access to her gun belt which contained her firearm.

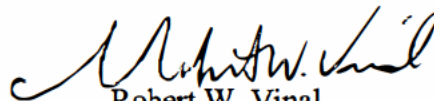
The common thread that runs through all of the above-cited misconduct is that the Respondent has shown disrespect to supervisors and that on various occasions she has failed to comply with Department rules and procedures where those rules conflicted with her personal concerns and personal needs.

The Assistant Department Advocate recommended as a penalty that the Respondent forfeit 45 vacation days and that she be required to serve one year on dismissal probation. The Respondent, by pleading guilty, accepted responsibility for all but one of her incidents of misconduct. The Respondent testified that she has learned from her mistakes and that she has changed her behavior since her transfer to her present command. Nonetheless, a period on dismissal probation is warranted.

It is, therefore, recommended that the Respondent be DISMISSED from the New York City Police Department, but that the penalty of dismissal be held in abeyance for a period of one year pursuant to section 14-115 (d) of the Administrative Code, during which time she remains on the force at the Police Commissioner's discretion and may be

terminated at any time without further proceedings. It is further recommended that the Respondent be required to forfeit 45 vacation days.

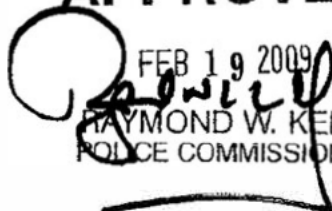
Respectfully submitted,



Robert W. Vinal

Assistant Deputy Commissioner -- Trials

APPROVED



FEB 19 2009
RAYMOND W. KELLY
POLICE COMMISSIONER

From: Assistant Deputy Commissioner - Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER LISA STOKES
TAX REGISTRY NO. 932017
DISCIPLINARY CASE NO. 84426/08

[REDACTED] She has no prior formal disciplinary record.

Robert W. Child

Robert W. Vinal
Assistant Deputy Commissioner – Trials



OFFICE OF THE POLICE COMMISSIONER

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RWK #2010-02294

CHAN

February 19, 2010

Memorandum for: First Deputy Commissioner
Attention: Chief of Personnel

**Subject: ADMINISTRATIVE TRANSFER OF A UNIFORMED MEMBER
OF THE SERVICE**

1. **P.O. Lisa Stokes, Tax # 932017**, was recently the subject of Disciplinary Case No. 84426/08.
2. Separate and apart from the disciplinary process, the Police Commissioner also mandates that, upon restoral to Full-Duty, P.O. Stokes be immediately transferred to either the 9th Precinct, or the 5th Precinct, subject to the exigencies of the Department.
3. Further, P.O. Stokes will not be the subject of any future transfer without the explicit approval of the Police Commissioner.
4. Forwarded for necessary attention.

BY DIRECTION OF THE POLICE COMMISSIONER

L Michael E. Shea
Assistant Chief
Commanding Officer
Police Commissioner's Office